

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION - CINCINNATI

TRUSTEES OF OHIO BRICKLAYERS	)	
HEALTH AND WELFARE FUND, et al,	)	CASE NO. 1:20-CV-00200
	)	
Plaintiffs,	)	Judge Matthew W. McFarland
	)	
vs.	)	
	)	
NATERNICOLA'S MASONRY, LLC, et	)	
al.,	)	
	)	
Defendants.	)	

**JUDGMENT ENTRY**

Upon Plaintiffs' Motion for Default Judgment, Memorandum in Support, and Declarations of Plan Manager and Leroy Hunter, judgment is hereby entered in favor of the Plaintiffs, Trustees of the Ohio Bricklayers Health and Welfare Fund, Trustees of the Ohio Bricklayers Pension Fund ("the Funds"), and Bricklayers and Allied Craftworkers District Council of West Virginia and against Naternicola's Masonry, LLC and Kirk Naternicola as follows:

- 1) Judgment in favor of the Funds and against the Company on Count I as follows:
  - a. A declaratory order that Naternicola's Masonry, LLC violated the Local Union CBAs by failing to report as required by the CBAs, failing to pay contributions, and failing to pay liquidated damages and interest;
  - b. Naternicola's Masonry, LLC is required to submit all contribution reports and payments to the Funds within fourteen (14) days of entry of this judgment and to timely submit all such reports and payments in the future;
  - c. A monetary judgment against Naternicola's Masonry, LLC for

all unpaid contributions, interest, and liquidated damages owed under all missing contribution reports;

- d. A permanent injunction against Naternicola's Masonry, LLC pursuant to Section 502(g)(2)(E) of ERISA prohibiting future violations of Section 515 of ERISA, 29 U.S.C. §1145, with respect to the Funds;
  - e. Reasonable attorneys' fee and costs incurred in this action as mandated by the CBAs, plan documents, and 29 U.S.C. §1132(g); and
  - f. Post-judgment interest pursuant to 28 U.S.C. §1961.
- 2) An order granting judgment in favor of the Bricklayers and Allied Craftworkers District Council of West Virginia and against Naternicola's Masonry, LLC on Count I for all unpaid dues, late fees, interest, and any other amounts due and owing under the Local Union CBAs;
- 3) A judgment in favor of the Funds and against defendant Kirk Naternicola on Counts II and III as follows:
- a. A declaratory order finding that Kirk Naternicola breached his fiduciary duty to the Funds;
  - b. A declaratory order finding that Kirk Naternicola engaged in prohibited transactions under ERISA;
  - c. An order that Kirk Naternicola is personally liable as well as jointly and severally liable to the Funds for all losses resulting from such fiduciary breach and prohibited transactions, including delinquent contributions, liquidated damages, interest, attorneys' fees, and costs, as provided by the Local Union CBAs, plan documents, and ERISA;
  - d. A monetary judgment against Kirk Naternicola for all unpaid contributions, interest and liquidated damages owed under all missing contribution reports;
  - e. Reasonable attorneys' fees and costs incurred in this action as mandated by the Local Union CBAs, plan documents, and 29 U.S.C. §1132(g); and

f Post-judgment interest pursuant to 28 U.S.C. §1961.

- 4) This Court retains jurisdiction of this matter pending defendants' compliance with its Orders. After Naternicola's Masonry, LLC files the reports required by Paragraph 1(b) of this judgment, Plaintiffs shall file a motion to amend the judgment to include all unpaid contributions, deductions, liquidated damages, interest, cost and attorneys' fees.

**IT IS SO ORDERED.**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO

By:   
JUDGE MATTHEW W. McFARLAND